

Name: William X Nietzche
Address: 104406 N. Mississippi Ave
Portland, Oregon [97217]
Phone: 503-539-2784

FILED 28 NOV 18 1450USDC-ORP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

William X. Nietzche, et al

Plaintiff(s),

Case No: # 3:18-cv-01930-SI

vs.

Freedom Home Mortgage Corporation, et al

Defendant(s).

I move the court to enter an order to
consider plaintiff's motion to stay state court proceedings
and plaintiff's Motion For Sanctions For Barratry
hereby attached as an exhibit.
Said motion was filed in Multnomah County Court, Oregon
case # 18LT16339.

Dated: 11/29/18

William X. Nietzche
All rights reserved, D. M. C.

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY**

URBAN HOUSING DEVELOPMENT, LLC.)	Case # <u>18LT16339</u>
V.)	MOTION TO STAY STATE COURT
William Kinney Jr.)	PROCEEDINGS; MOTION FOR
Julie A M Kinney)	SANCTIONS FOR BARRATRY
And ALL OTHERS)	<i>Re Hearing Requested</i>
<hr/>		
Julie Metcalf Kinney,)	
William Kinney Jr,)	
Counter-plaintiff(s),)	
And,)	
William X Nietzsche (solely as trustee for)	
KRME International Trust),)	
Third-party Intervenor,)	ORAL ARGUMENT REQUESTED
V.)	
URBAN HOUSING DEVELOPMENT LLC,)	
Roman Ozeruga,)	
Mark G. Passanante,)	
Counter-defendants.)	

MOTION TO STAY STATE COURT PROCEEDINGS

COMES NOW Third-Party Intervenor, a people of this Republic, William X Nietzsche, solely as trustee for KRME International Trust, to move this court of record to enter an order to: a) Automatically Stay the state court proceedings pending resolution of a jury trial on the merits of Counter-plaintiffs verified complaint in federal district court; b) Issue sanctions of contempt of court against Urban Housing Development, Roman Ozeruga, and Mark G. Passanante, for devious tactics of barratry; and in support states the following:

- 1) This court lacks subject matter jurisdiction as the facts and law in this matter is currently pending before federal district court.
- 2) The subject real property: 4406 North Mississippi Avenue, Portland Oregon, is pending a jury trial in the Federal District Court of Oregon Portland Division case #3:18-cv-01930-SI.
- 3) There is a dispute to title regarding subject real property.

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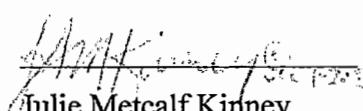
- 4) On November 5, 2018, A verified complaint was filed by Counter-plaintiff(s) and Third-party Intervenor in Federal District court regarding said real property alleging Quiet Title amongst other claims. (SEE EXHIBIT A)
- 5) On November 8, 2018, Defendant Urban Housing Development received a copy of the federal summons and verified complaint, along with a copy of Counter-plaintiffs Motion for Preliminary Injunction and Temporary Restraining Order regarding subject real property. (SEE EXHIBIT B)
- 6) On November 14, 2018, Counter-plaintiff(s) spoke with Roman Ozeruga of Urban Housing Development to inform him of said federal lawsuit.
- 7) On November 15, 2018, Counter-plaintiff(s) text messaged with Roman Ozeruga of Urban Housing Development to inform him of said federal lawsuit.
- 8) On November 20, 2018, Counter-plaintiff(s) had a phone conversation with attorney Terrance J. Slominski who is representing Defendants Urban Housing Development against Counter-plaintiff(s) federal claims.
- 9) In said conversation Terrance J. Slominsky admitted to having received counter-plaintiff(s) Verified Complaint that was filed in Federal District court November 5, 2018.
- 10) Defendants Urban Housing Development and Roman Ozeruga had actual or constructive notice of counter-plaintiff(s) Verified Complaint filed in Federal district court prior to the filing of this FED action in state court.
- 11) On information and belief, Mark G. Passanante had actual or constructive notice of counter-plaintiff(s) Verified Complaint filed in Federal district court prior to the filing of this FED action in state court.
- 12) On information and belief, defendants Urban Housing Development and Roman Ozerga, by and through their attorney Mark G. Passanante, knowingly and intentionally engaged in devious tactics of barratry in this court.
- 13) Defendants are knowingly and intentionally moving forward in bad faith by filing this frivolous FED action in state court.
- 14) Counter-plaintiff(s) are experiencing great emotional distress by having to expend time and effort responding to said frivolous FED action in state court.

/////////

WHEREFORE, Counter-plaintiff(s) move for an order for:

- a) An automatic stay of state court proceedings pending resolution by jury trial of Counter-plaintiff(s) federal Verified complaint;
- b) Issue sanctions of contempt of court against defendants Urban Housing Development, Roman Ozeruga, and their attorney Mark G. Passanante, for devious tactics of barratry.
- c) And any such other and further relief the court deems just and reasonable in the circumstances.

DATED: 11/28/18


Julie Metcalf Kinney
c/o 4406 North Mississippi Avenue
Portland, Oregon [97217]


William X Nietzsche ^{ucc1-308}
All Rights Reserved, droit réservé,
c/o 4406 North Mississippi Avenue
Portland, Oregon [97217]

CIVIL COVER SHEET

3:18-CV-1930-SI

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

<p>(a) PLAINTIFFS <i>William X. Kinnery Jr. et al.</i> <i>Julie Kinnery Jr.</i> <i>William Kinnery Jr.</i></p> <p>(b) County of Residence of First Listed Plaintiff <i>Albion</i> <i>EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)</p>	<p>DEFENDANTS <i>Freedom Home Mortgage Corporation et al.</i> <i>U.S. Bank N.A., Residential Loan Management Services,</i> <i>Clerk Recs Corporation</i></p> <p>County of Residence of First Listed Defendant <i>New York</i> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1"> <tr> <td data-bbox="780 596 894 649">Citizen of This State</td> <td data-bbox="894 596 943 649">PTF</td> <td data-bbox="943 596 991 649">DEF</td> <td data-bbox="991 596 1219 649">Incorporated or Principal Place of Business In This State</td> <td data-bbox="1219 596 1300 649">PTF</td> <td data-bbox="1300 596 1382 649">DEF</td> </tr> <tr> <td data-bbox="780 681 894 734">Citizen of Another State</td> <td data-bbox="894 681 943 734"><input type="checkbox"/> 2</td> <td data-bbox="943 681 991 734"><input type="checkbox"/> 2</td> <td data-bbox="991 681 1219 734">Incorporated and Principal Place of Business In Another State</td> <td data-bbox="1219 681 1300 734"><input type="checkbox"/> 5</td> <td data-bbox="1300 681 1382 734"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td data-bbox="780 766 894 819">Citizen or Subject of a Foreign Country</td> <td data-bbox="894 766 943 819"><input type="checkbox"/> 3</td> <td data-bbox="943 766 991 819"><input type="checkbox"/> 3</td> <td data-bbox="991 766 1219 819">Foreign Nation</td> <td data-bbox="1219 766 1300 819"><input type="checkbox"/> 6</td> <td data-bbox="1300 766 1382 819"><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business In This State	PTF	DEF	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business In This State	PTF	DEF														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

<p>IV. NATURE OF SUIT (Place an "X" in One Box Only)</p>			<p>Click here for Nature of Suit Code Descriptions</p>					
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES				
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 831 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act			
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS	OTHER		
<input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/ Disabilities - Employment <input type="checkbox"/> 446 Amer. w/ Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> Habeas Corpus <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Other: <input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

<p>V. ORIGIN (Place an "X" in One Box Only)</p> <p><input checked="" type="checkbox"/> 1 Original Proceeding</p> <p><input type="checkbox"/> 2 Removed from State Court</p> <p><input type="checkbox"/> 3 Remanded from Appellate Court</p> <p><input type="checkbox"/> 4 Reinstated or Reopened</p> <p><input type="checkbox"/> 5 Transferred from Another District (specify)</p> <p><input type="checkbox"/> 6 Multidistrict Litigation - Transfer</p> <p><input type="checkbox"/> 8 Multidistrict Litigation - Direct File</p>

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

NY VIC 1692K, 12 VIC 2414

VI. CAUSE OF ACTION

Brief description of cause:
Unlawful Foreclosure and Spec. Lst Note and Quiet Title

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.P.

DEMANDS

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S)

IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

November 5th 2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

64406 N. Mississippi
Portland Oregon [97217]
503 287-6494

EXHIBIT

PAGE

A

2 of 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

FILED NOV 05 2018 13:15 USDC-OR

William X Nietzsche (solely as trustee for
KRME International Trust),

William Kinney Jr.,

Julie Ann Metcalf Kinney,

Plaintiff/Petitioner,

Case No.

VERIFIED COMPLAINT

Specific Performance; Breach of Contract;
Promissory Estoppel; FDCPA; UDCPA;
Breach of Trustee's Duty; Injunctive Relief;
Fraud; OUTPA; RESPA; Accounting; Quiet
Title; ORS 124.100(2); Rescission TILA
DEMAND FOR JURY TRIAL

FREEDOM HOME MORTGAGE CORPORATION (FHMC),

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS (MERS),

BENEFICIAL OREGON INC. (BOI),

HSBC HOLDINGS PLC (HSBC),

REGIONAL TRUSTEE SERVICES CORPORATION (RTSC),

MTGLQ INVESTORS L.P. (MTGLQ),

RUSHMORE LOAN MANAGEMENT SERVICES (RLMS),

U.S. BANK NATIONAL ASSOCIATION (USBNA),

CLEAR RECON CORPORATION (CRC),

BARRISTERS SUPPORT SERVICES (BSS),

URBAN HOUSING DEVELOPMENT (UHD),

Et al.,

Defendants/Respondent(s)

80710

VERIFIED COMPLAINT - Page 1 of 21

EXHIBIT B
PAGE 1 of 1

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature </p> <p><input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Theresa Unisentu</u> C. Date of Delivery <u>11/7/18</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>	
<p>1. Article Addressed to:</p> <p>Roman Ozeruga Urban Housing Development 5305 River Rd N. # B Keizer Oregon 97303</p> <p></p> <p>9590 9402 3896 8060 2422 91</p> <p>2 7018 0360 0001 7156 8795</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Restricted Delivery <small>(over \$500)</small></p>	

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt